

ASSEMBLY BILL

No. 2379

Introduced by Assembly Member Weber

February 21, 2014

An act to amend Sections 827, 15610.55, and 18951 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2379, as introduced, Weber. Abuse of dependent adults: multidisciplinary teams.

(1) Existing law generally provides for the confidentiality of information regarding a minor in proceedings in the juvenile court and related court proceedings, and limits access to juvenile case files. Existing law allows only certain individuals to inspect a case file, including, among others, members of children's multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor.

This bill would additionally authorize access to those otherwise confidential records to members of children's multidisciplinary teams, persons, or agencies providing treatment or supervision of the adult who was a dependent of the juvenile court.

(2) Under existing law, counties are authorized to establish multidisciplinary personnel teams composed of persons trained in the prevention, identification, management, or treatment of abuse of elderly or dependent adults, that may include, but need not, limited to, specified persons, including social workers with experience or training in prevention of abuse of elderly or dependent adults.

This bill would add child welfare services personnel to the list of specified types of persons who may be included in those multidisciplinary personnel teams.

(3) Under existing law, counties are authorized to establish multidisciplinary personnel teams of persons who are trained in the prevention, identification, management, or treatment of child abuse or neglect cases, who may include, but need not be limited to, specified persons including social workers with experience or training in child abuse prevention, identification, management, or treatment.

This bill would add adult protective services personnel to the list of specified types of persons who may be included in those multidisciplinary personnel teams.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 827 of the Welfare and Institutions Code
2 is amended to read:
3 827. (a) (1) Except as provided in Section 828, a case file
4 may be inspected only by the following:
5 (A) Court personnel.
6 (B) The district attorney, a city attorney, or city prosecutor
7 authorized to prosecute criminal or juvenile cases under state law.
8 (C) The minor who is the subject of the proceeding.
9 (D) The minor's parents or guardian.
10 (E) The attorneys for the parties, judges, referees, other hearing
11 officers, probation officers, and law enforcement officers who are
12 actively participating in criminal or juvenile proceedings involving
13 the minor.
14 (F) The county counsel, city attorney, or any other attorney
15 representing the petitioning agency in a dependency action.
16 (G) The superintendent or designee of the school district where
17 the minor is enrolled or attending school.
18 (H) Members of the child protective agencies as defined in
19 Section 11165.9 of the Penal Code.
20 (I) The State Department of Social Services, to carry out its
21 duties pursuant to Division 9 (commencing with Section 10000),
22 and Part 5 (commencing with Section 7900) of Division 12, of the
23 Family Code to oversee and monitor county child welfare agencies,
24 children in foster care or receiving foster care assistance, and
25 out-of-state placements, Section 10850.4, and paragraph (2).

(J) Authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate community care facilities, and to ensure that the standards of care and services provided in those facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facilities are subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and may not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Social Services may not contain the name of the minor.

(K) Members of children's multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor *or an adult who was a dependent of the juvenile court*.

(L) A judge, commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case: a family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code, a court-appointed evaluator or a person conducting a court-connected child custody evaluation,

1 investigation, or assessment pursuant to Section 3111 or 3118 of
2 the Family Code, and counsel appointed for the minor in the family
3 law case pursuant to Section 3150 of the Family Code. Prior to
4 allowing counsel appointed for the minor in the family law case
5 to inspect the file, the court clerk may require counsel to provide
6 a certified copy of the court order appointing him or her as the
7 minor's counsel.

8 (M) A court-appointed investigator who is actively participating
9 in a guardianship case involving a minor pursuant to Part 2
10 (commencing with Section 1500) of Division 4 of the Probate
11 Code and acting within the scope of his or her duties in that case.

12 (N) A local child support agency for the purpose of establishing
13 paternity and establishing and enforcing child support orders.

14 (O) Juvenile justice commissions as established under Section
15 225. The confidentiality provisions of Section 10850 shall apply
16 to a juvenile justice commission and its members.

17 (P) Any other person who may be designated by court order of
18 the judge of the juvenile court upon filing a petition.

19 (2) (A) Notwithstanding any other law and subject to
20 subparagraph (A) of paragraph (3), juvenile case files, except those
21 relating to matters within the jurisdiction of the court pursuant to
22 Section 601 or 602, that pertain to a deceased child who was within
23 the jurisdiction of the juvenile court pursuant to Section 300, shall
24 be released to the public pursuant to an order by the juvenile court
25 after a petition has been filed and interested parties have been
26 afforded an opportunity to file an objection. Any information
27 relating to another child or which could identify another child,
28 except for information about the deceased, shall be redacted from
29 the juvenile case file prior to release, unless a specific order is
30 made by the juvenile court to the contrary. Except as provided in
31 this paragraph, the presiding judge of the juvenile court may issue
32 an order prohibiting or limiting access to the juvenile case file, or
33 any portion thereof, of a deceased child only upon a showing by
34 a preponderance of evidence that release of the juvenile case file
35 or any portion thereof is detrimental to the safety, protection, or
36 physical or emotional well-being of another child who is directly
37 or indirectly connected to the juvenile case that is the subject of
38 the petition.

1 (B) This paragraph represents a presumption in favor of the
2 release of documents when a child is deceased unless the statutory
3 reasons for confidentiality are shown to exist.

4 (C) If a child whose records are sought has died, and documents
5 are sought pursuant to this paragraph, no weighing or balancing
6 of the interests of those other than a child is permitted.

7 (D) A petition filed under this paragraph shall be served on
8 interested parties by the petitioner, if the petitioner is in possession
9 of their identity and address, and on the custodian of records. Upon
10 receiving a petition, the custodian of records shall serve a copy of
11 the request upon all interested parties that have not been served
12 by the petitioner or on the interested parties served by the petitioner
13 if the custodian of records possesses information, such as a more
14 recent address, indicating that the service by the petitioner may
15 have been ineffective.

16 (E) The custodian of records shall serve the petition within 10
17 calendar days of receipt. If any interested party, including the
18 custodian of records, objects to the petition, the party shall file and
19 serve the objection on the petitioning party no later than 15
20 calendar days of service of the petition.

21 (F) The petitioning party shall have 10 calendar days to file any
22 reply. The juvenile court shall set the matter for hearing no more
23 than 60 calendar days from the date the petition is served on the
24 custodian of records. The court shall render its decision within 30
25 days of the hearing. The matter shall be decided solely upon the
26 basis of the petition and supporting exhibits and declarations, if
27 any, the objection and any supporting exhibits or declarations, if
28 any, and the reply and any supporting declarations or exhibits
29 thereto, and argument at hearing. The court may solely upon its
30 own motion order the appearance of witnesses. If no objection is
31 filed to the petition, the court shall review the petition and issue
32 its decision within 10 calendar days of the final day for filing the
33 objection. Any order of the court shall be immediately reviewable
34 by petition to the appellate court for the issuance of an
35 extraordinary writ.

36 (3) Access to juvenile case files pertaining to matters within the
37 jurisdiction of the juvenile court pursuant to Section 300 shall be
38 limited as follows:

39 (A) If a juvenile case file, or any portion thereof, is privileged
40 or confidential pursuant to any other state law or federal law or

1 regulation, the requirements of that state law or federal law or
2 regulation prohibiting or limiting release of the juvenile case file
3 or any portions thereof shall prevail. Unless a person is listed in
4 subparagraphs (A) to (O), inclusive, of paragraph (1) and is entitled
5 to access under the other state law or federal law or regulation
6 without a court order, all those seeking access, pursuant to other
7 authorization, to portions of, or information relating to the contents
8 of, juvenile case files protected under another state law or federal
9 law or regulation, shall petition the juvenile court. The juvenile
10 court may only release the portion of, or information relating to
11 the contents of, juvenile case files protected by another state law
12 or federal law or regulation if disclosure is not detrimental to the
13 safety, protection, or physical or emotional well-being of a child
14 who is directly or indirectly connected to the juvenile case that is
15 the subject of the petition. This paragraph shall not be construed
16 to limit the ability of the juvenile court to carry out its duties in
17 conducting juvenile court proceedings.

18 (B) Prior to the release of the juvenile case file or any portion
19 thereof, the court shall afford due process, including a notice of
20 and an opportunity to file an objection to the release of the record
21 or report to all interested parties.

22 (4) A juvenile case file, any portion thereof, and information
23 relating to the content of the juvenile case file, may not be
24 disseminated by the receiving agencies to any persons or agencies,
25 other than those persons or agencies authorized to receive
26 documents pursuant to this section. Further, a juvenile case file,
27 any portion thereof, and information relating to the content of the
28 juvenile case file, may not be made as an attachment to any other
29 documents without the prior approval of the presiding judge of the
30 juvenile court, unless it is used in connection with and in the course
31 of a criminal investigation or a proceeding brought to declare a
32 person a dependent child or ward of the juvenile court.

33 (5) Individuals listed in subparagraphs (A), (B), (C), (D), (E),
34 (F), (H), and (I) of paragraph (1) may also receive copies of the
35 case file. In these circumstances, the requirements of paragraph
36 (4) shall continue to apply to the information received.

37 (b) (1) While the Legislature reaffirms its belief that juvenile
38 court records, in general, should be confidential, it is the intent of
39 the Legislature in enacting this subdivision to provide for a limited
40 exception to juvenile court record confidentiality to promote more

1 effective communication among juvenile courts, family courts,
2 law enforcement agencies, and schools to ensure the rehabilitation
3 of juvenile criminal offenders as well as to lessen the potential for
4 drug use, violence, other forms of delinquency, and child abuse.

5 (2) Notwithstanding subdivision (a), written notice that a minor
6 enrolled in a public school, kindergarten to grade 12, inclusive,
7 has been found by a court of competent jurisdiction to have
8 committed any felony or any misdemeanor involving curfew,
9 gambling, alcohol, drugs, tobacco products, carrying of weapons,
10 a sex offense listed in Section 290 of the Penal Code, assault or
11 battery, larceny, vandalism, or graffiti shall be provided by the
12 court, within seven days, to the superintendent of the school district
13 of attendance. Written notice shall include only the offense found
14 to have been committed by the minor and the disposition of the
15 minor's case. This notice shall be expeditiously transmitted by the
16 district superintendent to the principal at the school of attendance.
17 The principal shall expeditiously disseminate the information to
18 those counselors directly supervising or reporting on the behavior
19 or progress of the minor. In addition, the principal shall disseminate
20 the information to any teacher or administrator directly supervising
21 or reporting on the behavior or progress of the minor whom the
22 principal believes needs the information to work with the pupil in
23 an appropriate fashion, to avoid being needlessly vulnerable or to
24 protect other persons from needless vulnerability.

25 Any information received by a teacher, counselor, or
26 administrator under this subdivision shall be received in confidence
27 for the limited purpose of rehabilitating the minor and protecting
28 students and staff, and shall not be further disseminated by the
29 teacher, counselor, or administrator, except insofar as
30 communication with the juvenile, his or her parents or guardians,
31 law enforcement personnel, and the juvenile's probation officer
32 is necessary to effectuate the juvenile's rehabilitation or to protect
33 students and staff.

34 An intentional violation of the confidentiality provisions of this
35 paragraph is a misdemeanor punishable by a fine not to exceed
36 five hundred dollars (\$500).

37 (3) If a minor is removed from public school as a result of the
38 court's finding described in subdivision (b), the superintendent
39 shall maintain the information in a confidential file and shall defer
40 transmittal of the information received from the court until the

1 minor is returned to public school. If the minor is returned to a
2 school district other than the one from which the minor came, the
3 parole or probation officer having jurisdiction over the minor shall
4 so notify the superintendent of the last district of attendance, who
5 shall transmit the notice received from the court to the
6 superintendent of the new district of attendance.

7 (c) Each probation report filed with the court concerning a minor
8 whose record is subject to dissemination pursuant to subdivision
9 (b) shall include on the face sheet the school at which the minor
10 is currently enrolled. The county superintendent shall provide the
11 court with a listing of all of the schools within each school district,
12 within the county, along with the name and mailing address of
13 each district superintendent.

14 (d) Each notice sent by the court pursuant to subdivision (b)
15 shall be stamped with the instruction: “Unlawful Dissemination
16 Of This Information Is A Misdemeanor.” Any information received
17 from the court shall be kept in a separate confidential file at the
18 school of attendance and shall be transferred to the minor’s
19 subsequent schools of attendance and maintained until the minor
20 graduates from high school, is released from juvenile court
21 jurisdiction, or reaches the age of 18 years, whichever occurs first.
22 After that time the confidential record shall be destroyed. At any
23 time after the date by which a record required to be destroyed by
24 this section should have been destroyed, the minor or his or her
25 parent or guardian shall have the right to make a written request
26 to the principal of the school that the minor’s school records be
27 reviewed to ensure that the record has been destroyed. Upon
28 completion of any requested review and no later than 30 days after
29 the request for the review was received, the principal or his or her
30 designee shall respond in writing to the written request and either
31 shall confirm that the record has been destroyed or, if the record
32 has not been destroyed, shall explain why destruction has not yet
33 occurred.

34 Except as provided in paragraph (2) of subdivision (b), no
35 liability shall attach to any person who transmits or fails to transmit
36 any notice or information required under subdivision (b).

37 (e) For purposes of this section, a “juvenile case file” means a
38 petition filed in any juvenile court proceeding, reports of the
39 probation officer, and all other documents filed in that case or
40 made available to the probation officer in making his or her report,

1 or to the judge, referee, or other hearing officer, and thereafter
2 retained by the probation officer, judge, referee, or other hearing
3 officer.

4 SEC. 2. Section 15610.55 of the Welfare and Institutions Code
5 is amended to read:

6 15610.55. (a) “Multidisciplinary personnel team” means any
7 team of two or more persons who are trained in the prevention,
8 identification, management, or treatment of abuse of elderly or
9 dependent adults and who are qualified to provide a broad range
10 of services related to abuse of elderly or dependent adults.

11 (b) A multidisciplinary personnel team may include, but need
12 not be limited to, any of the following:

13 (1) Psychiatrists, psychologists, or other trained counseling
14 personnel.

15 (2) Police officers or other law enforcement agents.

16 (3) Medical personnel with sufficient training to provide health
17 services.

18 (4) Social workers with experience or training in prevention of
19 abuse of elderly or dependent adults.

20 (5) Public guardians.

21 (6) The local long-term care ombudsman.

22 (7) *Child welfare services personnel.*

23 SEC. 3. Section 18951 of the Welfare and Institutions Code is
24 amended to read:

25 18951. As used in this chapter:

26 (a) “Child” means an individual under 18 years of age.

27 (b) “Child services” means services for or on behalf of children,
28 and includes the following:

29 (1) Protective services.

30 (2) Caretaker services.

31 (3) Day care services, including dropoff care.

32 (4) Homemaker services or family aides.

33 (5) Counseling services.

34 (c) “Adult services” means services for or on behalf of a parent
35 of a child, which shall include, but not be limited to, the following:

36 (1) Access to voluntary placement, long or short term.

37 (2) Counseling services before and after a crisis.

38 (3) Homemaker services or family aides.

39 (d) “Multidisciplinary personnel” means any team of three or
40 more persons who are trained in the prevention, identification,

1 management, or treatment of child abuse or neglect cases and who
2 are qualified to provide a broad range of services related to child
3 abuse or neglect. The team may include, but need not be limited
4 to, any of the following:

5 (1) Psychiatrists, psychologists, marriage and family therapists,
6 or other trained counseling personnel.

7 (2) Police officers or other law enforcement agents.

8 (3) Medical personnel with sufficient training to provide health
9 services.

10 (4) Social workers with experience or training in child abuse
11 prevention, identification, management, or treatment.

12 (5) A public or private school teacher, administrative officer,
13 supervisor of child welfare and attendance, or certificated pupil
14 personnel employee.

15 (6) A CalWORKs case manager whose primary responsibility
16 is to provide cross program case planning and coordination of
17 CalWORKs and child welfare services for those mutual cases or
18 families that may be eligible for CalWORKs services and that,
19 with the informed written consent of the family, receive cross
20 program case planning and coordination.

21 (7) *Adult protective services personnel.*

22 (e) “Child abuse” as used in this chapter means a situation in
23 which a child suffers from any one or more of the following:

24 (1) Serious physical injury inflicted upon the child by other than
25 accidental means.

26 (2) Harm by reason of intentional neglect or malnutrition or
27 sexual abuse.

28 (3) Going without necessary and basic physical care.

29 (4) Willful mental injury, negligent treatment, or maltreatment
30 of a child under the age of 18 years by a person who is responsible
31 for the child’s welfare under circumstances that indicate that the
32 child’s health or welfare is harmed or threatened thereby, as
33 determined in accordance with regulations prescribed by the
34 Director of Social Services.

35 (5) Any condition that results in the violation of the rights or
36 physical, mental, or moral welfare of a child or jeopardizes the
37 child’s present or future health, opportunity for normal
38 development, or capacity for independence.

- 1 (f) “Parent” means any person who exercises care, custody, and
2 control of the child as established by law.

O